

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

MARVASE SPELL,)
vs.)
Plaintiff,)
vs.) Civil Action No. 09-091
COMMONWEALTH OF)
PENNSYLVANIA MAG. DIST. #05-2-11)
and HON. ROBERT L. BARNER,)
Defendants.)
)

AMBROSE, Chief District Judge

**OPINION AND
ORDER OF THE COURT**

Pro se plaintiff, Marvase Spell, (hereinafter, “Mr. Spell”) initiated this action via a complaint filed on January 29, 2009. I granted Defendants’ Motion to Dismiss on May 19, 2009, but permitted Mr. Spell to file an amended complaint. Mr. Spell timely filed an amended complaint and Defendants filed a motion to dismiss the amended complaint. By way of court order dated June 17, 2009 (a copy of which was mailed via U.S. mail to Mr. Spell on that same date), I ordered Mr. Spell to respond to the motion by July 6, 2009. Mr. Spell declined to respond to the motion, and I must now rule on the motion to dismiss the amended complaint.

I have reviewed the amended complaint filed by Mr. Spell and note that it is titled “amended complaint,” the first portion of the document essentially attempts to respond to or “answer” – as the document itself indicates – my June 17, 2009 court order. The second portion of the document provides some factual allegations, all of which were raised in the original complaint which I previously dismissed.

I will grant the Defendants' motion to dismiss for two reasons. First, since there are no new factual allegations asserted in the amended complaint, I grant Defendants' motion to dismiss the amended complaint for the same reasons and based on the same legal authority I previously articulated in my June 17, 2009 opinion and order.¹ Second, Mr. Spell failed to respond to the Defendants' motion to dismiss the amended complaint despite the fact that he was aware of this motion and his deadline for responding to it.

¹ I note that Mr. Spell appears to raise legal arguments in response to my prior court order within the body of his amended complaint. Legal arguments such as the ones he attempts to make are not appropriate content for an amended complaint.

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Having carefully reviewed Plaintiff's amended complaint [docket no. 10] and Defendants' motion to dismiss the amended complaint [Docket No.12], and having received no response or opposition from Plaintiff to the motion, it is hereby ORDERED that Defendants' motion to dismiss the amended complaint is GRANTED. This case is now closed.

Date: July 21, 2009

BY THE COURT:

/s/ Donetta W. Ambrose
Donetta W. Ambrose,
Chief U.S. District Judge